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F.#2009R01793

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**15 N 021**

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UNITED STATES OF AMERICA

**TO BE FILED UNDER SEAL**

- against -

**COMPLAINT AND AFFIDAVIT  
IN SUPPORT OF APPLICATION  
FOR ARREST WARRANT**

MUHANAD MAHMOUD AL FAREKH,

Defendant.

(T. 18, U.S.C., § 2339A)

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EASTERN DISTRICT OF NEW YORK, SS:

MARY ANN MARCELL, being duly sworn, deposes and says that she is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

**CONSPIRACY TO PROVIDE MATERIAL SUPPORT TO TERRORISTS**

Upon information and belief, in or about and between December 2006 and September 2009, both dates being approximate and inclusive, within the extraterritorial jurisdiction of the United States, the defendant MOHANAD MAHMOUD AL FAREKH, together with others, did knowingly and intentionally conspire to provide material support and resources, as that term is defined in Title 18, United States Code, Section 2339A(b)(1), including personnel, including himself, knowing and intending that they were to be used in preparation for, and in carrying out, violations of federal laws, including:

a. Title 18, United States Code, Section 1114 (killing and attempting to kill officers and employees of the United States and of any agency or branch of the United States, to wit: U.S. military personnel, while such officers and employees were engaged in or on account of the performance of official duties, and any person assisting such officers and employees); and

b. Title 18, United States Code, Sections 2332(a) and (b) (killing, attempting, and conspiring to kill a national of the United States while such national is outside the United States).

(Title 18, United States Code, Section 2339A).

The source of your deponent's information and the grounds for her belief are as follows:

1. I am currently assigned to the FBI Joint Terrorism Task Force ("JTTF"), and have been so assigned since April 2007. I am familiar with the facts contained in this affidavit as a result of my participation in the investigation of the events discussed below, my discussions with other JTTF agents and law enforcement officers, and my review of law enforcement and other reports and records. Statements of others set forth herein are set forth in substance and in part. Because the purpose of this affidavit is merely to establish probable cause to arrest, I have not set forth all of the facts and circumstances of which I am aware.

COOPERATING WITNESSES 1, 2 AND 3

2. The information set forth in this affidavit derives, in part, from interviews with three cooperating witnesses, whom I shall refer to as CW1, CW2 and CW3.

CW1 has pleaded guilty, pursuant to a cooperation agreement, to terrorism and other charges as a result of CW1's personal participation in some of the events discussed herein.<sup>1</sup>

CW2 has also pleaded guilty, pursuant to a cooperation agreement, to terrorism charges as a result of CW2's personal participation in the events discussed herein.<sup>2</sup> CW3 has pleaded guilty, pursuant to a cooperation agreement, to terrorism and other charges relating to CW3's involvement with al-Qaeda.<sup>3</sup>

### FACTUAL BACKGROUND

3. Beginning at least in December 2006, the defendant MUHANAD MAHMOUD AL FAREKH, together with co-conspirators Ferid Iman and an individual identified herein as Co-conspirator 1 or CC1, entered into an agreement to depart Winnipeg, Canada, where the three men were enrolled as students at the University of Manitoba, and travel to the Federally Administered Tribal Areas ("FATA") of Pakistan with the intention of training for violent jihad against U.S. military personnel operating in Afghanistan.

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<sup>1</sup> Although CW1 initially gave partially false information to the FBI, and has committed crimes of dishonesty, once CW1 agreed to fully cooperate with the government, CW1 has given reliable information that has been extensively corroborated by multiple forms of evidence, including evidence that CW1 does not know about. Pursuant to the cooperation agreement, CW1 is subject to breach if CW1 provides false information. Upon breach, CW1 would face a guidelines range of life imprisonment.

<sup>2</sup> Although CW2 initially gave partially false information to the FBI, and has committed crimes of dishonesty, once CW2 agreed to cooperate with the government, CW2 has given reliable information that has been extensively corroborated by multiple forms of evidence, including evidence that CW2 does not know about. Pursuant to the cooperation agreement, CW2 is subject to breach if CW2 provides false information. Upon breach, CW2 would face a guidelines range of life imprisonment.

<sup>3</sup> Information provided by CW3 has proven reliable and accurate in the past. Pursuant to the cooperation agreement, CW3 is subject to breach if CW3 provides false information. Upon breach, CW3 would face a guidelines range of life imprisonment.

4. AL FAREKH is a citizen of the United States who was born in Texas. Ferid Imam and CC1 are citizens of Canada and have been charged separately with terrorism offenses in Canada. Imam has also been charged with terrorism offenses, including violation of 18 U.S.C. § 2339B, in an indictment in the Eastern District of New York, under Docket Number 10-CR-019 (S-4) (RJD).

5. As students at the University of Manitoba, AL FAREKH, Imam and CC1 became close associates. According to a witness who was a close associate of AL FAREKH prior to his departure for Pakistan ("Witness 1"), AL FAREKH, Imam and CC1 frequently viewed videos encouraging violent jihad, including online lectures by the now-deceased al-Qaeda leader Anwar al-Awlaki.<sup>4</sup>

6. Based on my training and experience, I am aware that al-Awlaki's lectures have inspired numerous terrorist plots against Western targets. For example, participants in the 2005 London subway bombings; the 2006 plot to detonate truck bombs in Ontario, Canada; the 2010 Times Square bombing; and the 2012 plot to bomb the New York Federal Reserve all had listened to or viewed al-Awlaki lectures prior to their participation in those attacks. In addition, I am aware that al-Awlaki has influenced extremists to join

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<sup>4</sup> Anwar Al-Awlaki was a dual citizen of the United States and Yemen, and an Islamic lecturer and leader of Al-Qaeda of the Arabian Peninsula ("AQAP"), a Yemen-based terrorist group that has claimed responsibility for terrorist acts against targets in the United States, Saudi Arabia, Korea and Yemen since its inception in January 2009. Al-Awlaki played a key role in setting the strategic direction of AQAP, recruited individuals to join AQAP, facilitated training at camps in Yemen in support of acts of terrorism, and helped focus AQAP's attention on planning attacks on U.S. interests. For example, Al-Awlaki helped to prepare Umar Farouk Abdulmutallab, the individual who attempted to detonate an explosive device aboard a Northwest Airlines flight to Detroit on December 25, 2009, for his operation. Pursuant to a Presidential Executive Order, Al-Awlaki was designated by the United States as a "Specially Designated Global Terrorist" on July 12, 2010. Al-Awlaki was reportedly killed in Yemen on September 30, 2011.

terrorist organizations overseas. For example, a U.S. citizen who pleaded guilty in the Eastern District of Virginia to attempting to provide material support to the designated terrorist organization al-Shabaab posted online lectures of al-Awlaki that purported to explain the Islamic justification for killing those who insulted or defamed the prophet Muhammad. CW1 and CW2 also watched online sermons by al-Awlaki prior to departing New York for the FATA and have stated that the sermons played an important role in radicalizing them and inspiring them to wage jihad against U.S. forces in Afghanistan.

7. Witness 1 provided law enforcement with a video filmed by Witness 1 that depicts AL FAREKH and CC1 watching violent jihadi videos – one humorous and one serious – on or about February 24, 2007.

8. According to Witness 1, Witness 1 observed AL FAREKH, Imam and CC1 become increasingly religious in late 2006 and 2007. Witness 1 also overheard discussions between the three regarding violent jihad. During one such conversation, CC1 stated that jihad was a necessity. The three would make comments like, “God bless their souls,” in apparent reference to the souls of jihadist fighters and martyrs. They would also refer to now-deceased al-Qaeda leader Osama bin Laden as “Sheikh.” According to my training and experience, the term “Sheikh” is an Arabic honorific by which religious leaders and scholars are referred. Members and associates of al-Qaeda almost uniformly refer to Osama bin Laden as “Sheikh.”

9. In or around early 2007, Witness 1 observed that AL FAREKH, Imam and CC1 were making plans to travel abroad that suggested they did not plan to return to Canada. For example, AL FAREKH, Imam and CC1 sold all of their belongings and would

not provide a coherent explanation to Witness 1 as to their reason for doing so. In addition, Witness 1 discussed with CC1 that CC1 was attempting to close all of his bank accounts.

10. Several weeks before AL FAREKH, Imam and CC1 departed from Canada in or around March 2007, AL FAREKH told Witness 1 that they would be traveling to Pakistan. AL FAREKH told Witness 1 that the travel was a "business trip." Prior to this conversation, Witness 1 was not aware of AL FAREKH, CC1 or Imam having any interest in traveling to Pakistan or conducting business activities there. When Witness 1 asked why AL FAREKH would go to Pakistan, since (according to Witness 1) the only thing in Pakistan was jihad, AL FAREKH laughed and did not respond further.

11. The night before AL FAREKH, Imam and CC1 departed Canada for Pakistan, Witness 1 drove them to a store in order to purchase supplies for their trip. Witness 1 observed that all three individuals purchased mountain boots. Based on my training and experience investigating terrorism cases, as well as the debriefings of CW1, CW2 and CW3 (all three of whom traveled from the United States to the FATA and subsequently joined al-Qaeda), I am aware that the terrain of the FATA can often be rough and difficult to navigate and that the military-type training courses provided by jihadist groups like al-Qaeda require significant exertion. According to individuals who have been through al-Qaeda training and operations against U.S. forces in Afghanistan on behalf of al-Qaeda and affiliated groups, mountain boots are the most common footwear worn during those activities and are necessary to navigate the rough and mountainous terrain of Afghanistan.

12. According to Witness 1, the day after AL FAREKH, Imam and CC1 made the purchases mentioned above, they disappeared from Canada without further warning.

All three individuals had disconnected their mobile telephones prior to departing. Witness 1 traveled to AL FAREKH's grandmother's house, where AL FAREKH had been staying. When Witness 1 found that AL FAREKH was not there, Witness 1 asked AL FAREKH's grandmother if she knew where he was. According to Witness 1, AL FAREKH had not given his grandmother any notice that he was planning to leave the country. According to my training and experience, as well as the debriefings of CW1, CW2 and CW3, it is typical of individuals who seek to travel to the FATA to join jihadist groups not to inform their family members of their intent. This is because the individuals are often worried that their family members will try to block their ability to leave once they learn of the individuals' intent to engage in violent jihad. In addition, many individuals who travel intending to martyr themselves during their jihad seek to avoid the emotional farewells that would ensue if the individuals informed their family members that they were planning to engage in suicide operations and never see their family again.

13. Later that same day, Witness 1 received a telephone call from AL FAREKH, Imam and CC1. When Witness 1 asked where they were calling from, the three responded, in sum and substance, "Don't worry about where we are. You know where we are going." When Witness 1 maintained that that he did not know where they were going, Imam stated that they were on their way to be martyrs. Witness 1 told the three that they were going to die, and all three laughed at Witness 1. Imam then told Witness 1 to distance himself from them and that they would never speak again.

14. According to airline and travel records, in March 2007, AL FAREKH, Imam and CC1 traveled to Karachi, Pakistan using round trip tickets and with tourist visas.

Airline records further indicate that none of them used the return portion of their purchased airline tickets.

15. As noted above, CW1, CW2 and CW3 – like AL FAREKH – are United States citizens who traveled to the FATA to fight violent jihad and join al-Qaeda. According to CW3, he was inspired to join al-Qaeda in part by watching videos of violent jihad that al-Qaeda's media arm, as-Sahab media, published on the internet while CW3 was still in the United States. The as-Sahab videos viewed by CW3 are similar to the jihad videos that Witness 1 indicated AL FAREKH, Imam and CC1 watched in Canada before departing for the FATA. In addition, CW1, CW2 and CW3 reported that they were inspired to travel to the FATA, fight U.S. forces in Afghanistan, and join al-Qaeda in part by watching online sermons delivered by now-deceased al-Qaeda leader Anwar al-Awlaki. Witness 1 indicated that he observed AL FAREKH, Imam and CC1 watching Anwar al-Awlaki videos and lectures while they were still in Canada.

16. CW3, like AL FAREKH, traveled to Pakistan in order to join al-Qaeda on a round-trip ticket purchased in his own name. According to CW3, this is a common means by which United States citizens seeking to join al-Qaeda traveled to al-Qaeda's training camps in the FATA. The purchase of a round-trip ticket – despite the fact that the purchasers do not in fact intend to return to their home countries – is intended to appear less suspicious to border control officers. Similarly, while Peshawar is the city in Pakistan closest to the FATA, CW3 indicated that individuals seeking to join al-Qaeda in the FATA typically choose to fly into another city, such as Karachi, in order to avoid arousing suspicion.



17. CW1 and CW2 also purchased round-trip tickets in their own name in order to travel to Pakistan to fight jihad. They were initially uncertain as to whether they would use the return portion of the tickets because they intended to travel from the FATA into Afghanistan to conduct attacks against U.S. forces stationed there and knew they might die in those combat operations. Ultimately, however, CW1 and CW2 were recruited by al-Qaeda to conduct a suicide bomb attack on the New York City subway system, and therefore returned to the U.S. in order to carry out that attack. As described further infra, CW1 and CW2 received weapons training in an al-Qaeda camp from AL FAREKH's coconspirator Ferid Imam relating to their plot to attack the subway.

18. According to another witness who is a family member of CC1 ("Witness 2"), shortly after AL FAREKH, Imam and CC1 left Pakistan, Witness 2 contacted AL FAREKH's father, who lives overseas. AL FAREKH's father told Witness 2 that AL FAREKH and another friend had traveled to Pakistan and were staying in a hotel in Peshawar. Based on my training and experience, I know that Peshawar is a city in the North-West Frontier Province of Pakistan and, at times relevant to the charged conduct, often served as a gateway to the FATA and as a primary location of operations for al-Qaeda.

19. In addition, in or about January 2009, CC1 sent a signed letter to his family that included the following statements:

- I tell you please not to follow what the media says about Talibans [sic], Al-Qaida and other groups fighting for the sake of Allah (s.w.t.)<sup>5</sup> until you, yourself have experienced what I have experienced.
- I am hoping that you will all move to Pakistan and I will see you there in person.
- If you do decide to come to Pakistan don't tell them that you are coming to meet me. Also avoid the Pakistani government, they don't need to know about this. And if your plan is to come to Pakistan to try to talk to me of going back with you then I swear by Allah (s.w.t.) that this will never happen.

20. As noted above, in or around August 2008, CW1, CW2 and one of their friends, identified herein as Coconspirator 2 or CC2, flew from New York to Pakistan in order to engage in violent jihad against American and Coalition forces fighting in Afghanistan.

21. CW1 and CW2 have informed the FBI that, shortly after CW1, CW2 and CC2 arrived in Pakistan, the three sought local assistance in training with a jihadist organization so that they could fight on the battlefield. Following a series of introductions, CW1, CW2 and CC2 traveled to Miram Shah, a city in North Waziristan. In Miram Shah, the three met two al-Qaeda leaders, including an older African man who introduced himself as "Abdul Hafeez." CW1 and CW2 both identified a photograph of an al-Qaeda external operations leader named Saleh al-Somali as "Abdul Hafeez."

22. According to CW3, who traveled from the United States to Pakistan and joined al-Qaeda in the spring of 2008, "Abdul Hafeez," who also went by the name "Saleh al-Somali," was a senior al-Qaeda commander of Somali origin who was, in 2008, in charge of

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<sup>5</sup> "S.W.T." is a common abbreviation for the Arabic phrase Subhānahu Wa Ta'Ala, which means "glorified and exalted be he."

al-Qaeda's external operations command. Al-Qaeda's external operations command controls and directs al-Qaeda's terrorist plots aimed at American and Western targets outside of Pakistan and Afghanistan.

23. According to CW3, who had extensive interaction and discussions with the leaders of al-Qaeda external operations command while he was in the FATA, al-Qaeda had a strong preference for using operatives with Western passports to conduct attacks in Western countries. Al-Qaeda specifically recruited individuals with U.S., Canadian and European citizenship, regardless of their ethnicity, in order to take advantage of the lack of travel restrictions imposed on Western citizens traveling in North America and Europe and the fact that citizens were less likely to arouse scrutiny by Western intelligence agencies in 2007 and 2008. CW1, CW2, CW3 and AL FAREKH are all United States citizens; Imam and CC1 are Canadian citizens.

24. CW1, CW2 and CW3 each completed al-Qaeda's basic military-type training course in the FATA. As they described it, the course involved three separate areas of instruction: basic weapons training, explosives training and projectile weapons training. Each area of instruction would be taught by trainers in a class setting; each class lasted between one to three weeks.

25. CW1 and CW2 have identified the al-Qaeda operative who taught the basic weapons training course they took as Ferid Imam, who went by the name "Yousef." When CW1 and CW2 met Imam in or around September 2008, he told them that he had been in the FATA with al-Qaeda for approximately a year. Imam told CW1 that he had not yet had the opportunity to fight on al-Qaeda's behalf on the battlefield in Afghanistan, although he was

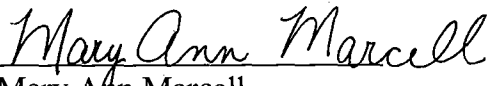
eager to do so. Imam stated that he had instead become a trainer in al-Qaeda's military-type training program. Imam favorably contrasted al-Qaeda's extensive training program with the lack of training provided by the Taliban to its fighters; according to Imam, al-Qaeda gave its new recruits detailed weapons instruction and training, whereas the Taliban just handed their recruits a gun and sent them off to the battlefield.

26. According to CW1 and CW2, they and CC2 received training from Imam in the use of light weapons, heavy weapons and explosives. For example, Imam taught them how to assemble, maintain and use AK-47 machine guns (also referred to as Kalashnikov rifles), PK medium machine guns, rocket-propelled grenade launchers, 9-millimeter pistols and 82-millimeter pistols. According to CW1 and CW2, after the technical part of the instruction was completed, Imam accompanied CW1, CW2 and CC2 to an open area where they were taught how to fire, and in fact discharged, the Kalashnikov rifle, PK machine gun, rocket-propelled grenade launcher, and other weapons.

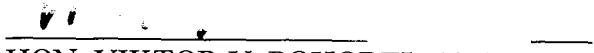
27. According to CW1, CW2 and CW3, the language of instruction in al-Qaeda's training courses is Arabic. Any students who do not speak Arabic are provided with translators who help them understand the instructors. According to CW1 and CW2, Imam was insistent that they learn the Arabic names for various components of the weapons they would use on the battlefield, such as AK-47 machine guns. Imam stated that it would be necessary for them to be able to communicate about weapons components and security on the battlefield with their al-Qaeda comrades, most of whom spoke only Arabic. According to CW2, based on what he observed in the FATA and learned from the senior al-Qaeda members he met and interacted with, any Arabic-speaking jihadists in the FATA were most likely

aligned with al-Qaeda as opposed to the other militant groups operating in the area. Both AL FAREKH and Imam were fluent in Arabic.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant MUHANAD AL FAREKH so that he be dealt with according to law.

  
Mary Ann Marcell  
FBI Special Agent

Sworn to before me this  
8th day of January, 2015

  
HON. VIKTOR V. POHORELSKY  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK